

SUPPLEMENTAL DETAILED ACTION

The examiner inadvertently acted on the claims filed August 21, 2009 in the After Final amendment in the action mailed October 29, 2009, instead of the newly amended claims filed with the Request for Continued Examination(RCE) on October 21, 2009. The following action being sent out is supplemental to the action mailed October 29, 2009 and the examiner will examine the claims filed October 21, 2009 as to the merits. The shortened statutory period for reply will be restarted from the mailing date of this action. The examiner apologizes to the applicant for any inconvenience this may have caused at this stage in prosecution.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 21, 2009 has been entered.

Claim Objections

2. Claims 1, 3, 4 and 5 are objected to because of the following informalities: In claim 1, lines 1 and 2, the sentence “, said plumbing fixture comprising a water outlet (2), with” should be changed to --having a water outlet, comprising-- in order to not positively recite the plumbing fixture and to only claim the subcombination of aerator. In claim 1, line 3, the phrase --adapted

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to be-- should be inserted before the word “removably” in order to only functionally recite the outlet end of the water outlet of plumbing fixture. Claims 4 and 5, line 1, the phrase “the external thread” lacks antecedent basis since the language has been deleted from line 5 of claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Symmons.

Symmons discloses an aerator 2/4/32 having an outer side 30 being partially spherical and is mounted pivotally within an outer ring 22 that has external threads at 24 to threadingly engage internal threads 14 of a plumbing fixture/water outlet 10.

5. Claims 3, 6-10, 13, 15 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by DE 3205205.

DE 3205205 discloses an aerator comprising all the featured elements of the instant invention, see Figures 1 and 2.

6. Claims 3, 6, 8-10 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Aghnides.

Aghnides discloses an aerator comprising all the featured elements of the instant invention, see Figures 1 and 2.

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7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4, 6-10, 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Thomas et al '846.

Thomas et al '846 discloses a swivel spray aerator comprising all the featured elements of the instant invention, note specifically plumbing fixture having a water outlet, see col. 4, line 43; aerator 83/85/72/109; outer ring 74/76 with external threads at 75 to be fixed at the outlet end of the plumbing fixture; a sealing ring 112; and a swiveling mechanism being a ball-and-socket comprising the outer ring 74/76 in which a ball/spherical segment 72/109 is mounted and in which the aerator 83/85 is completely or at least partially mounted within the ball/spherical segment 72/109. See Figure 4 and 25-27

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Symmons.

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Symmons discloses all the featured elements of the instant invention except for the standard dimensions of the outer ring threads. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the external threads be standards dimensions as claimed in order to fit into outlet ends of typical plumbing fixtures.

11. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al '846.

Thomas et al '846 discloses all the featured elements of the instant invention except for the standard dimensions of the outer ring threads. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the external threads be standards dimensions as claimed in order to fit into outlet ends of typical plumbing fixtures.

Thomas et al '846 discloses all the featured elements of the instant invention except for the aerator which can be screwed into the channel of the ball/spherical segment. Currently flanges 188 are used to fix the aerator 83/85 in the channel of the ball/spherical segment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the aerator which can be(i.e. capable of) screwed into the ball/segment, wherein so doing would amount to the mere substitution of one functional equivalent securing means for another within the same art and the selection of any of these securing means whether a screw thread or flange friction fit would work equally well in the Thomas et al '846 device.

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 3205205.

DE 3205205 discloses all the featured elements of the instant invention except for the aerator which can be screwed into the channel of the ball/spherical segment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an

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aerator which can be(i.e. capable of) screwed into the ball/segment, wherein so doing would amount to the mere substitution of one functional equivalent securing means for another within the same art and the selection of any of these securing means whether a screw thread or friction fit would work equally well in the DE 3205205 device.

Response to Arguments

13. Applicant's arguments with respect to claims 1-10 and 13-16 have been considered but are moot in view of the new ground(s) of rejection.

In regard to applicant's arguments concerning Symmons, note that the examiner has considered the elements 2/4/30/32 as being the aerator, element 10 as being the plumbing fixture/water outlet and element 22 as being the outer ring. The element 30 which is considered part of the aerator is clearly mounted within the outer ring 22. Independent claim 1 as currently amended is directed essentially to the same patentable features as presented in the amendment filed January 27, 2009 except it is even broader in scope.

Independent claim 3 as currently amended is directed to essentially the same patentable features as presented in claims 1 and 3, which were filed on September 19, 2006, and such claims were rejected in the Office action mailed October 30, 2008.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN J. GANEY whose telephone number is (571)272-4899. The examiner can normally be reached on 9:00-5:00; Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven J. Ganey/
Primary Examiner
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sjg